

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
EVAN MIRANDA and EVELYN PEREZ,
:

Plaintiffs,
:

24-CV-9792 (JAV)

-v-
:

ORDER
:

YORKHILL HOUSING INC.,
:

Defendant.
:
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JEANNETTE A. VARGAS, United States District Judge:

By Order dated April 1, 2025 (ECF No. 20), the Court indicated that it required more information regarding Defendant Evelyn Perez’s capacity to determine if the appointment of a guardian ad litem may be appropriate under Rule 17(c) of the Federal Rules of Civil Procedure.

The Court directed Plaintiffs “to come forward with medical records evidencing Ms. Perez’s diagnoses as they pertain to her ability to prosecute and defend her rights and interests, including, if applicable, a declaration from a treating physician who can attest to Ms. Perez’s (1) diagnoses, (2) capacity to make decisions, (3) ability to understand legal proceedings, and (4) any other information relevant to whether she can represent her own interests. If Ms. Perez has already been appointed a guardian or conservator, the submission should identify the individual who has been appointed to act on Ms. Perez’s behalf.” *Id.*

On April 29, 2025, Plaintiff Evelyn Perez submitted her response to this Order. The bulk of the submission was a power of attorney. But a power of attorney does not speak to Ms. Perez’s mental capacity. Nor does it authorize Evan Miranda, who does not claim to be an attorney, to appear on Ms. Perez’s behalf in these proceedings. *United States v. Holland*, No. 19-CV-02456 (DG) (JMW), 2022 WL 1406641, at *2 & n.2 (E.D.N.Y. May 4, 2022). The power of

attorney is therefore not relevant to the Court's consideration under Rule 17(c).

In terms of the requested medical records, there was a single two-sentence letter from a medical provider, the date of which is illegible. The letter refers obliquely to Ms. Perez's "medical condition" but does not specify the nature of that condition or the duration of that condition, or the nature of the author's relationship with Ms. Perez. The letter does not indicate Ms. Perez's medical diagnosis or prognosis. The letter does not set forth the results of any cognitive or neurological testing, or the nature of the treatment that she has undergone. The letter also does not address Ms. Perez's capacity to understand legal proceedings and contains only a conclusory statement regarding her inability to make business decisions.

This one-page letter is insufficient to establish that Ms. Perez lacks the capacity to represent herself in this action. The Court requires verifiable evidence from a medical or mental health professional, either in the form of a sworn affidavit or declaration made under penalty of perjury by Ms. Perez's treating physician, or in the form of the underlying medical records themselves. The evidence should make clear the nature of Ms. Perez's medical or mental health condition and why it renders her legally incompetent, including how it affects her ability to comprehend and make decisions for herself.

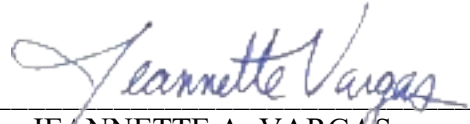
The Court will offer Plaintiffs one more opportunity to submit the requested medical evidence. All medical records and declarations should be filed under seal by submitting the documents to the *Pro Se* Intake Unit with notice that the documents are to be filed under seal. Plaintiffs shall have until **June 12, 2025**, to submit the requested records.

If the Court is unable to make a determination based on that submission that Ms. Perez is not competent, then she will be required to either represent herself in this proceeding or have counsel appear on her behalf.

Evan Miranda is HEREBY ORDERED to (1) serve a copy of this Order upon Ms. Perez within one day of receipt, and (2) file proof of such service with the Court by **two days after service**.

SO ORDERED.

Dated: May 13, 2025
New York, New York

A handwritten signature in blue ink that reads "Jeannette Vargas". The signature is written in a cursive, flowing style. It is positioned above a horizontal line.

JEANNETTE A. VARGAS
United States District Judge